

THE MEDIA COALITION, INC.

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New Report Details Rise of Feminist Censor Catharine A. MacKinnon

NEW YORK, N.Y., November 2, 1993--Harshly critical reviews of her latest book and reports that her war against "pornography" has backfired in Canada have combined to awaken renewed interest in University of Michigan law professor Catharine A. MacKinnon, a coalition of media groups said today as it released a report on her career, Catharine A. MacKinnon: The Rise of a Feminist Censor, 1983-1993. "Our report details the remarkable story of a woman who rose from obscurity to stardom by calling for the restriction of First Amendment rights," Christopher Finan, the executive director of Media Coalition, a New York-based coalition of producers and distributors of books, magazines, recordings and videos, said today.

Ten years ago, MacKinnon made a name for herself by urging censorship as a strategy for helping women attain equal rights. Today, she has broadened her attack on free speech, criticizing a key protection of press freedom, New York Times v. Sullivan.

Yet, as her ideas have grown more extreme, MacKinnon has become a star. The New York Times Magazine put MacKinnon on its cover. NBC News hired her as a commentator during the Clarence Thomas hearings.

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Reviewers have been nearly unanimous in condemning the proposals in MacKinnon's latest book, Only Words. "This professor at the University of Michigan law school...is a leader of the most radical assault on free speech in American history," columnist George Will wrote on October 30. "Her book begins as a denunciation of pornography and swiftly escalates into an all-out attack on the First Amendment," Michiko Kakutani said in the New York Times.

By coincidence, the danger of MacKinnon's views was being discovered in Canada at about the same time. In 1992, the Canadian Supreme Court authorized the suppression of material with sexual content that met MacKinnon's definition of "pornography." However, the Canadian government has been using its new power to suppress feminist, lesbian and gay material coming from the United States. In early October, customs authorities seized two boxes containing copies of a novel by critically-acclaimed author David Leavitt.

Earlier in the year, in a moment of supreme irony, customs seized two works by Andrea Dworkin, a founder of the feminist anti-pornography movement who helped MacKinnon draft the very definition that was used to suppress her works as "pornography."

An executive summary of Media Coalition's 49-page MacKinnon report accompanies this release. A list of the reviews of Only Words is appended to the full report.

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Executive Summary

Catharine A. MacKinnon: The Rise of a Feminist Censor, 1983-1993

By Christopher M. Finan

Ten years ago, an itinerant feminist lecturer told the Minneapolis Zoning Commission that it could legitimately limit First Amendment rights to promote the equality of women. In a few sentences, Catharine A. MacKinnon launched a campaign that would make her the leader of a powerful movement to limit free speech in the United States. (p. 1)

Today, MacKinnon is a star. She is a tenured law professor at the University of Michigan. Her books are published by Harvard University Press. MacKinnon has been on the cover of the New York Times Magazine. NBC News hired her as a commentator during the Clarence Thomas hearings. (pp. 42-43)

What makes MacKinnon's rise so remarkable is that she has never pretended to be anything other than what she is--a frank advocate of censorship. In her latest book, Only Words, MacKinnon argues that our society will not achieve real equality until government uses its power to limit the First Amendment rights of the "powerful" and gives these rights to women and minority groups who have been "silenced" by their powerlessness. MacKinnon criticizes a key protection of press freedom, New York Times v. Sullivan, as a decision "licensing the dominant to say virtually anything about subordinated groups..." (pp. 2-4)

"The law of equality and the law of freedom of speech are on a collision course in this country," MacKinnon warns. For this, she can claim much of the credit. (pp. 4-5)

Reviewers of Only Words have been nearly unanimous in condemning MacKinnon's proposals. "This professor at the University of Michigan law school...is a leader of the most radical assault on free speech in American history," columnist George Will said in his review. "Her book begins as a denunciation of pornography and swiftly escalates into an all-out attack on the First Amendment," Michiko Kakutani wrote in the New York Times. (p. 4) A list of the reviews of Only Words is appended to the full report. (p. 49)

By coincidence, evidence that MacKinnon's war against "pornography" had backfired in Canada began to come to the public's attention at about the same time. In 1992, the Canadian Supreme Court authorized the suppression of material with sexual content that met MacKinnon's definition of "pornography." However, the Canadian government has been using its new power to suppress feminist, lesbian and gay material coming from the United States. In early October, customs authorities seized two boxes containing copies of a novel by critically-acclaimed author David Leavitt. Earlier in the year, in a moment of supreme irony, customs seized two works by Andrea Dworkin, a founder of the feminist anti-pornography movement who helped MacKinnon draft the very definition that was used to suppress her works as "pornography." (pp. 44-45)

MacKinnon grew up in politics. Her father was a Republican Congressman from Minnesota who ran unsuccessfully for Governor. At Smith College, MacKinnon majored in political science and spent her summers working in political jobs. When she graduated from Smith in 1964, she went to Yale University to continue her studies in political science. (p. 5)

At Yale, MacKinnon became involved in student politics, opposing the Vietnam War and working with the Black Panthers. It was also at Yale that she first became involved with the women's movement, from which, she said, "I learned everything I know." She interrupted her graduate studies to attend Yale Law School. When she graduated in 1977, she resumed her studies in political science and eventually earned her Ph.D. (pp. 5-6)

MacKinnon's decision to embrace censorship reflects the pessimism that many feminists began to feel when the women's movement encountered strong opposition in the late 1970's. With the defeat of the Equal Rights Amendment, some women began to see sexual violence as the main obstacle to equality. Writer Andrea Dworkin helped launch an anti-pornography movement among feminists by publishing Pornography: Men Possessing Women in 1979. Yet, other feminists resisted calls for censorship, citing the danger that government might try to censor feminists. Margaret Sanger was prosecuted for violating the obscenity laws for sending birth control information through the mail. (pp. 6-9)

MacKinnon initially opposed the censorship of sexually explicit material. However, she became convinced that it was the influence of pornography that was preventing women from recognizing and fighting sexual inequality. Pornography brainwashed women into actually desiring sexual subordination, she said. Therefore, censorship was necessary to free the minds of women. (pp. 9-11)

MacKinnon's crusade for censorship began in 1984 when she and Dworkin drafted an anti-pornography ordinance for the City of Minneapolis that authorized the suppression of any book, magazine, film or recording that described or depicted "the sexually explicit

subordination of women"--a definition that was broad enough to include many popular books and films as well as classics like Taming of the Shrew, Othello, Twelfth Night, Tom Jones and The Arabian Nights. The Minneapolis City Council approved the ordinance on December 30, 1984, but it was vetoed by Mayor Donald Fraser as a threat to First Amendment rights. (pp. 11-15)

MacKinnon was so obsessed with suppressing pornography that to win passage of her ordinance she joined forces with people who opposed equal rights for women. The conservative Republican mayor of Indianapolis embraced the MacKinnon-Dworkin ordinance as a way to eliminate sexually explicit material from his city. The woman who led the successful fight for the ordinance in the city council was a leader in the campaign that defeated the Equal Rights Amendment in Indiana. Nevertheless, MacKinnon praised the passage of the bill as a victory for women's rights. (pp. 15-17)

The courts made quick work of MacKinnon's ordinance. Federal District Court Judge Sarah Evans Barker agreed that "pornography" is harmful, but she insisted that censorship was the greater threat. (pp. 17-19)

Many feminists were shocked by MacKinnon's departure from the feminist tradition of opposing censorship. Anti-censorship feminists began to organize to oppose new censorship laws. One of them, the Feminists Anti-Censorship Taskforce, submitted a brief to the U.S. Circuit Court of Appeals on behalf of 63 prominent feminists of both sexes, including Betty Friedan, Rita Mae Brown, Kate Millet and Adrienne Rich. A three-judge panel of the appeals court unanimously upheld the lower court decision, and the United States Supreme Court summarily affirmed it. (pp. 19-24)

MacKinnon reacted angrily to the rejection of her ordinance and attempted to discredit her feminist critics by questioning their commitment to women's equality. She claimed that her ordinance had been misrepresented, but she was herself guilty of misrepresentation when she claimed that it was aimed mainly at violent pornography. Despite her protestations, many liberals concluded that her ordinance was an attack on the First Amendment. In November 1985, the voters of Cambridge, Massachusetts, decisively defeated the ordinance in a referendum. (pp. 24-28)

Just when things seemed bleakest, MacKinnon's crusade against pornography was given new life by the Reagan administration, which appointed the Attorney General's Commission on Pornography to demonstrate that sexually explicit material is harmful. MacKinnon testified before the commission and helped give it a legitimacy that it lacked because of its conservative orientation. She hailed its report in 1986 as a possible "turning point in women's rights." She also defended the commission's action in threatening to identify 23 leading corporations as distributors of "pornography." A federal judge ordered the commission to retract this letter. (pp.

28-31)

But MacKinnon did more than defend the conservative censors. She gave them a new way of justifying their attacks on sexually explicit speech. They no longer condemned the material for its "immorality" but for its alleged "harmfulness." With this fig leaf, the conservatives proceeded to wreak havoc on First Amendment rights. Conservative anti-pornography groups grew in size and influence. Major chains, including 7-Eleven, withdrew Playboy and Penthouse from more than 17,000 stores. The swimsuit edition of Sports Illustrated, issues of Cosmopolitan and rock magazines were also pulled by retailers anxious to avoid controversy. An anti-obscenity taskforce that was set up in the Justice Department forced distributors of sexually explicit material to stop selling even constitutionally-protected works like Playboy, Penthouse and Joy of Sex. Obscenity laws were strengthened around the country. (pp. 31-35)

MacKinnon's importance in the anti-pornography movement did not immediately translate into any material benefits for herself. She complained that the radicalness of her ideas was preventing her from finding a tenured position at a university. She was not the only person who found it difficult to get tenure in the 1970's. But there was some truth to her complaint. At Yale, some professors objected to hiring her on the grounds that she would polarize the university. (pp. 35-37)

But growing efforts to curb "hate speech" on the nation's college campuses soon helped MacKinnon win acceptance. Attempts to enact speech codes to punish offensive statements proliferated in the 1980's as colleges and universities sought to ease the tensions in an increasingly diverse student body. MacKinnon's attacks on sexually explicit material put her in the forefront of this movement. She was offered tenure at the University of Michigan Law School in 1989--the same year that the university's pioneering speech code was struck down by the courts. (pp. 37-40)

MacKinnon's ideas were widely influential in the early 1990's. She and other feminists had fought to outlaw sexual harassment as a violation of women's civil rights. While this worthy goal was upheld by the Supreme Court in 1986, it became clear in 1991 that efforts would be made to broaden the definition of sexual harassment to censor all offensive speech in the workplace. A convenience store manager sued her employer on the grounds that forcing her to sell First Amendment-protected magazines with sexual content was a form of sexual harassment. Congress also responded to MacKinnon's ideas by seriously considering making publishers, booksellers and others who produced and distributed First Amendment-protected works with sexual content liable for rapes and other sexual crimes "caused" by reading or seeing this material. (pp. 40-42)

MacKinnon became a star in October 1991 when the New York Times Magazine published a laudatory profile. The next day, Anita Hill announced that she would testify that Supreme Court nominee Clarence Thomas had sexually harassed her. MacKinnon was immediately in demand as a commentator on the Thomas hearings. Later in the year, the national media sought her views again during the trial of William Kennedy Smith for rape. (pp. 42-44)

MacKinnon's influence reached a new high in early 1992 when the Canadian Supreme Court made parts of her definition of pornography the law of the land in Canada. Although MacKinnon predicted that the Canadian decision would provide the impetus for new laws embodying her approach in the United States, she has been stymied by the growth of the feminist anti-censorship movement, represented by such organizations as Feminists for Free Expression and the Working Group on Women, Censorship and "Pornography," a project of the National Coalition Against Censorship. (pp. 44-46)

In the fall of 1993, MacKinnon could look back on the last 10 years with satisfaction. Her legal career was progressing rapidly. In April, she narrowly missed winning tenure at Harvard Law School. But MacKinnon was more than a successful professor: she was a celebrity. Time reported her engagement to Jeffrey Masson, and New York made the couple the subject of a cover story. Ten years after she had advocated censorship for the first time, Catharine MacKinnon had made it big. (pp. 46-48)

APPENDIX

Reviews of Catharine A. MacKinnon, Only Words, as of Nov. 2, 1993

- Jacoby, Susan. "Doing Violence to Pornography," Newsday, Sept. 12, 1993, 47.
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- Levendosky, Charles. "Those Who Censor, Censor Themselves," Casper Star-Tribune, Sept. 19, 1993.
- Mehegan, David. "MacKinnon's Misguided War on Porn," Boston Globe, Oct. 6, 1993, Living Section, 61.
- Page, Clarence. "Speech More Than A Tad Too Free in This Country?" Orlando Sentinel, Sept. 28, 1993, A21.
- Posner, Richard. "Obsession," New Republic, Oct. 18, 1993, 31.
- Reynolds, Susan Salter. Only Words, Los Angeles Times, Oct. 3, 1993, Book Review Section, 6.
- Schuyler, Nina. "The Deeds Behind Pornography's Words," San Francisco Chronicle, Sept. 26, 1993, Sunday Review, 8.
- Scott, Janny. "Catharine MacKinnon: Pursuing a Different Approach to Sexual Inequality," Los Angeles Times, Interview, Oct. 24, 1993, M3.
- Scruton, Roger. "Kiss Me, Cate," National Review, Nov. 1, 1993, 61-62.
- Will, George. "Keeping Free Speech Free," Sacramento Bee, Oct. 30, 1993, B8.
- Yardley, Jonathan. "Sticks and Stones," Washington Post, Sept. 19, 1993, Book World, X3.